

H.136

An act relating to accommodations for pregnant employees

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 21 V.S.A. § 495k is added to read:

§ 495k. ACCOMMODATIONS FOR PREGNANCY-RELATED

CONDITIONS

(a) It shall be an unlawful employment practice for an employer to:

(1) fail or refuse to reasonably accommodate an employee's condition related to pregnancy, childbirth, or a related medical condition unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer;

(2) require an employee to take leave if another reasonable accommodation can be provided for an employee's condition related to pregnancy, childbirth, or a related medical condition;

(3) deny employment opportunities to an employee if the denial is based on the refusal of the employer to reasonably accommodate an employee's condition related to pregnancy, childbirth, or a related medical condition;

(4) fail or refuse to treat, for an employment-related purpose, an employee who the employer knows is pregnant as well as the employer treats or would treat any other employee who is not pregnant but is similar in his or her ability or inability to work;

(5) require an employee to accept an accommodation that the employee chooses not to accept, if the employee does not have a known limitation related to pregnancy, childbirth, or a related medical condition, or if the accommodation is unnecessary for the employee to perform the essential duties of her job; or

(6) take adverse employment action against an employee for requesting or using a reasonable accommodation for a condition related to pregnancy, childbirth, or a related medical condition.

(b) As used in this section:

(1) “Reasonable accommodation” means the changes and modifications which can be made in the structure of a job or in the manner in which a job is performed. Reasonable accommodation may include more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, seating, temporary transfer to a less strenuous or hazardous position, job restructuring, light duty, assistance with manual labor, modified work schedules, or the provision of unpaid leave in addition to any leave provided pursuant to federal law or sections 472 and 472a of this title.

(2) “Undue hardship” means an action requiring significant difficulty or expense to the employer. Factors to be considered in determining whether an undue hardship is imposed by the requirement that reasonable accommodation

be made for a condition related to pregnancy, childbirth, or a related medical condition include:

(A) the overall size of the employer's operation with respect to the number of employees, number and type of facilities, and size of budget; and

(B) the cost for the accommodation needed.

(c) Nothing in this section shall be construed to affect any other law providing protections against sex or pregnancy discrimination, pregnancy, or any law that provides greater protection or benefits with respect to pregnancy, childbirth, or a medical condition related to childbirth.

(d) An employer shall post notice of the provisions of this section in a form provided by the Commissioner in a place conspicuous to employees at the employer's place of business.

## Sec. 2. EFFECTIVE DATES

(a) This section and in Sec. 1, 21 V.S.A. § 495k subsections (a)–(c) shall take effect on July 1, 2017.

(b) In Sec. 1, 21 V.S.A. § 495k subsection (d) shall take effect on January 1, 2018.